

ORIGINAL

Answering brief, Case No. 07-cv-632GMS

Judge Sheet

Plaintiff Andrew Davis reply in support of motion to proceed.

Standard of Review

1) Plaintiff has established elements necessary to support 42 U.S.C. § 1981, 1983, 1986, 2000C, & 2000D-8 pursuant to 42 U.S.C. § 1961. Davis vs Monroe for Title 9 purposes, student on intended harassment in the school could rise to the level of discrimination actionable under the statute.

2) pursuant to 42 U.S.C. § 1983. Every person who subjects, or causes to be subjected to the deprivation of any rights, privileges, or immunities shall be liable. Our son was subjected & caused to be subjected to the Title 9 offense which in this statute can rise to discrimination. School was alerted as to the Title 9 violation & did not address the matter. Because of this our 14th amendment rights were harmed as the school retained substantial control over context of said act, but didn't act timely or appropriately. In such, the violation was perpetrated under their watch. Because of lack of action on the schools part our son was not able to participate in class trip & other such activities because of the schools inability to protect said student.

3. pursuant to 42 U.S.C. 1986 school was made aware of Title IX violation on both instances & did not take action to prevent. Parents had to get police involved for lack of action to prevent and act by school officials. Pursuant to 1986, all defendants had knowledge of wrong being perpetrated & had the power to prevent or aid in the prevention of Commission. (Vance 293 F.3d at 257) Court held when the school district has actual knowledge that its efforts to remediate are ineffective & it continues to use those efforts it has failed to act reasonably. Therefore, a lack of adequate response could suggest deliberate indifference.

(Linda Davis v Monroe County Bd of Educ., 531 U.S. 967 (2001)) all parties that had knowledge of violation have all been joined as defendants in the action.

- 4) on Oct. 20th, 2007 I received correspondence in the mail from Dana Monro. Attached to the cover letter was a notice of Availability of a U.S. Magistrate Judge to exercise jurisdiction. In accordance with the provisions of 28 U.S.C. § 636(c) & Fed. R. Civ. P. 73, it is however permitted only if all parties voluntarily consent. I have not or never have affixed my signature to said document. I have not consented to this act, but since a Magistrate has been assigned to the case. This is undesirable as the language in the court's order is that the parties who initially requested such, has been afforded such a motion. The question is motion?

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While the problem, I fear (and Mr. Jones agrees),
attudes to a variety of the Magistrate's ability to
have the case litigated faster, we are still filing
motions & answering things to the contrary.

For the above stated reason, plaintiff request
that this court proceed in hearing the claims
against the defendants as claimant and not rebutted.

Thank you,

MR. Andrew Davis 1/16/08

MR. Andrew Davis

Certificate of Service

I, Andrew Davis, do hereby certify that on the 16th day of January 2008, five copies of the foregoing Andrew Davis claim (including copy) were served by regular U.S. 1st class mail, postage paid:

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